

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LENIER AYERS,

**Plaintiff,**

V.

HENRY RICHARDS, *et al.*,

## Defendants.

No. C08-5390 BHS/KLS

**ORDER DENYING MOTION TO  
CONSOLIDATE**

Before the court is Plaintiff's motion to consolidate this matter with Cause No. C08-5541 RJB/KLS and to amend his complaint. Dkt. 192. Having reviewed the motion, Defendants' opposition (Dkt. 195), and balance of the record, the court finds that the motion should be denied.

Under Federal Rules of Civil Procedure 42(a), a court may consolidate two actions involving common questions of law or fact. This court has broad discretion under Rule 42(a) to consolidate cases pending in the same district. *U.S. v. Lindsey*, 877 F.2d 777 (9th Cir. 1989). Mr. Ayers raises several claims in No. C08-5541 involving common questions of law or fact that are raised in his complaint in this case. However, the court construes Plaintiff's request to consolidate as a response to the court's previous order requiring him to pay sanctions before allowing this case to proceed. That issue was resolved by Judge Settle's Order dated April 23, 2010, directing that the case be heard on the merits. Dkt. 201.

In addition, this case has been pending for almost two years, the time for discovery is long past, the dispositive motions deadline expired in November 2009, and Defendants' motion

1 for summary judgment is pending. Dkt. 175. In Case No. C08-5541RJB/KLS, the court has  
2 already issued its report and recommendation on Defendants' motion for summary judgment.  
3 Dkt. 81. A decision by the District Judge is pending.

4 The court need not consolidate these cases to resolve the issues. Rather, it may rule on  
5 the issues raised in each case and can dismiss as duplicative any issues raised here that have  
6 already been considered in C08-5541RJB.

7 Accordingly, it is **ORDERED**:

8 (1) Plaintiff's motion to consolidate (Dkt. 192) is **DENIED**.  
9 (2) The Clerk shall send copies of this Order to Plaintiff and counsel for Defendants.

10  
11 DATED this 26th day of May, 2010.

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14 Karen L. Strombom  
15 United States Magistrate Judge  
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